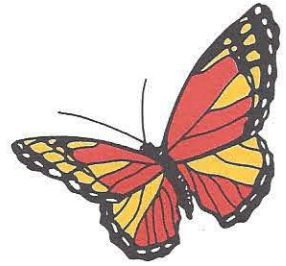


CLLEAN

CITIZENS FOR LOWRY LANDFILL ENVIRONMENTAL ACTION NOW

71 Algonquain Street • Aurora, CO 80018 • (303) 912-2905 * berr@pcisys.net



March 24, 2017

Mr. Leslie Sims, RPM
U.S. EPA Office of Ecosystem Protection and Remediation
Mail Code 8EPR-SR
1595 Wynkoop St.
Denver, Colorado 80202-1129

Subject: Response to EPA Communication to CLLEAN Dated March 7, 2016

Dear Mr. Sims:

We are in receipt of the letter signed by you dated March 7, 2017, regarding both technical and community outreach concerns. We will respond to your letter paragraph by paragraph for clarity.

However welcome your letter may be, we continue to wait for a response from EPA Attorney Amelia Piggott regarding CLLEAN's questions in our October 13, 2016 letter to Assistant Regional Administrator Martin Hestmark. We have listed them, again, in the final pages of this letter. We continue to look forward to a response from Attorney Piggott.

Page 1, Paragraph 2

"EPA understands the importance of precise and informative community outreach and strives to be consistent and helpful in all our interactions with the public"

CLLEAN disagrees. For at least 12 years, correspondence regarding the Lowry Landfill Superfund Site (LLSF) has not been between EPA Region 8 and CLLEAN, it has been between CLLEAN and Work Settling Defendants (WSDs) Contractor Tim Shangraw, Engineering Management Support, Inc. (EMSI).

The letter signed by Leslie Sims, dated November 14, 2013, was initiated by EPA Headquarters and discusses the Lowry Groundwater Monitoring Procedure as a result of CLLEAN's White Papers being sent to EPA Headquarters Scientists for their review. Other than the November 14 letter, EPA Region 8 has not written a response to CLLEAN regarding technical issues nor has EPA Region 8 actively participated (split sampling) in technical tests at the LLSF Site until April, 2016.

When CLLEAN was told EPA would be split sampling with the WSDs in April, 2016, CLLEAN Board was very encouraged that, finally, there would be some checks and balances in the testing done at the LLSF Site.

As to “**precise and informative community outreach**” - CLLEAN has been asking for the April, 2016 split sample results for almost a year now, most recently in an email to Les Sims dated March 16, 2017. Les Sims did forward the split sample results to CLLEAN today, March 24, 2017.

EPA Region 8 has not offered to update CLLEAN on the 3D Visuals that EPA Contractors have been developing for at least 3 years.

EPA Region 8 has not provided an update for at least three years on what work has been done at the LLSF Site, or what work is planned for the future.

It is now time for the **fourth** Five Year Review – and – EPA Region 8 has not yet addressed any of CLLEAN’s or CDPHE concerns listed in the **third** 5 Year Review.

- ✓ Please consider this a formal request for information and any associated data on the above listed issues.

Page 1, Paragraph 3

This paragraph does not address any of CLLEAN’s concerns. The focus is on describing the 5 Year Review process, which CLLEAN clearly understands.

“The Five Year Review interview process is described in EPA guidance and is intended to seek input and opinions about remedy effectiveness from community members. The interview process is not intended primarily to be an information exchange opportunity, such as in the Community relations Plan development process.”

The above highlighted words do not make sense. EPA is looking for information, but not really?

“In the case of the interviews you reference, staff interviewers were not in a position to elicit or disseminate detailed and specific technical information.”

And yet, they did.

Page 2, 1st Full Paragraph

“The guidance was adopted and implemented by the WSDs in 2015 following a comprehensive review and evaluation of the site’s groundwater monitoring plan (GMP).”

The review and evaluation of the site’s groundwater monitoring plan was done as a result of CLLEAN’s 2013 White Papers which clearly defined the deficiencies of the plan.

- ✓ Please consider this a formal request for all resultant information, including the data that was produced during the 2015 comprehensive review and evaluation of the site's groundwater plan.

Page 2, Paragraph 2

“This deficiency was effectively addressed following the WSD’s implementation of the Agency’s.....”

- ✓ Please accept this as a formal request for EPA Region 8 to provide CLLEAN with the data that backs this statement up. Does this mean that EPA Region 8 and the WSDs are no longer ignoring the EPA 2009 Guidance?

Page 2, Paragraph 3

“As to the issue of potential impacts to shallow groundwater contaminant levels from potable water injections being conducted at the site, this practice was implement over a decade ago by the WSDs to address water augmentation requirements and as a temporary measure to assist efforts in mitigating groundwater contamination near the northern boundary of the site.”

1. If this was a temporary measure, why is it still on-going?
2. If, after 30 years, injection has not brought the site into compliance, why continue?
3. Why are the injection sites located so close to Compliance Wells?

“EPA is evaluating potential impacts to shallow groundwater contaminant levels over time from this process, and possible recommendation for changing the process, if and where applicable, will be included as part of the 2017 five-year Review report.”

It is obvious to CLLEAN that the impact to shallow groundwater is very clear – there is a plume of 1,4-dioxane, and possibly VOCs, in the groundwater 2.5 miles north of the LLSF Site.

This evaluation should have been done years ago when it was first discovered in 2005 that 1,4-dioxane had traveled more than 2.5 miles north, past the Point of Compliance in the groundwater. If the evaluation had been performed at that time and it had revealed information that triggered remediation efforts, perhaps CLLEAN would not be concerned about shallow domestic wells located north and directly in the path of the dioxane plume. Perhaps the residents living in Murphy Creek would not be concerned about the possible negative impacts to their property values caused by the unknowns of the chemicals that may be around and under their homes.

CLLEAN and their Technical Advisors would welcome an opportunity to participate in the evaluation.

As EPA’s Regulating Partner, CDPHE should play a pivotal role in the evaluation. This partnership will give the public confidence that the evaluation will be conducted with the intent of protecting human health and the environment, not making the LLSF Site appear protective.

“ EPA is not aware of any data indicating that groundwater contaminant levels are being negatively influenced by potable water injections conducted at the site,”

This statement adds insult to injury considering that both CLLEAN and CDPHE have been commenting for years to EPA Region 8 that:

1. Injection is **not part of the remedy**,
2. Dilution is NOT the solution to pollution,
3. Groundwater data are **not** representative of site conditions because of the injection,
4. Cannot objectively evaluate down gradient groundwater impacts because of the injection/dilution,
5. Injecting potable water spreads the contaminants wider and in directions it would not have gone before,
6. Injection of potable water adds to the mass to be treated,
7. Injection of potable water near compliance wells does not give accurate data on the conditions at the compliance wells.

This statement proves that EPA Region 8 personnel have not been reviewing CLLEAN and CDPHE comment on this subject. EPA Region 8 would have been “aware” and would not be stating they would welcome the opportunity to review any such data. (See next)

“The Agency would welcome the opportunity to review any such data of which you may know.”

The Agency should have been investigating the injection as a normal part of oversight by the Lead Agency at the Site. It is an embarrassment for the Agency, after all the comment that has been made over the years by CLLEAN and CDPHE on the subject, to be admitting that “the Agency would welcome an opportunity to review any data.” The Agency should not be asking the public for information that should have been provided, years ago, by the Agency, because of their oversight and investigations.

Page 2, Paragraph 4

“The EPA initiated changes to its Superfund website last year....”

CLLEAN applauds this action and looks forward to a much improved and factual website. It is our opinion that the website should have been totally updated and factual before the 5 Year Review was initiated and the website was recommended to an uneducated public.

“A fact sheet summarizing important activities that have occurred at the site in recent months also will be available on the website.”

Before 2005, EPA was diligent in bringing CLLEAN and CDPHE into the process of writing a fact sheet to assure all perspectives were included in the fact sheet. Every fact sheet that has been produced since 2005 has not included complete or accurate information – both CLLEAN and CDPHE have commented very clearly on that subject. For instance – the plume map on past Fact Sheets is misleading, the basis is not provided and the plume, in light of the new standards,

is relatively undefined. It is important to include a figure showing the potential plume, but it should be described and the known minimum extent shaded, not outlined.

- ✓ Will EPA Region 8 allow CLLEAN and CDPHE to participate in this project?

Page 2, Paragraphs 5 & 6

“Lastly, in response to your February 15, 2017 email titled “Interviews for 2017 Five Year Review. The EPA’s intention is to conduct interviews with individuals who have a broad spectrum of interest at the site.”

It appears that EPA Region 8 is looking for proof of broader public interest in LLSF Site than that of CLLEAN alone.

CLLEAN supports this effort and has lately been working with CDPHE to form a Citizens Advisory Group (CAG) for the Lowry Site.

During initial conversations with EPA representatives Libby Faulk and Katherine Jenkins regarding EPA participation in the project, it did not appear that EPA was convinced that a CAG was necessary. EPA suggested that perhaps more Fact Sheets and an updated website would suffice.

Recently, during a conversation with RPM Les Sims, I discussed the possible formation of a CAG with him and he appeared to be willing to look into our request for EPA Region 8 to advocate in favor of forming the LLSF Site CAG.

We now have interest from at least 8, up to a possible 12, HOAs that have indicated they are interested in a CAG in order to become more informed and kept up to date on Lowry issues. The Sierra Club has also committed a representative to participate.

If EPA Region 8 is interested in improving public knowledge and increased participation in the LLSF Site – a LLSF Site CAG is the perfect solution.

- ✓ Will EPA region 8 recommend the formation of a LLSF Site CAG?

If you have any questions or clarifications, please feel free to call me at (303)912-2905 or email me at berr@pcisys.net. In the meantime, we look forward to receiving the information and data we have requested.

Sincerely,



Bonnie L. Rader, President, CLLEAN

Attachment

Cc: Steve Wharton, EPA Region 8
Katherine Jenkins, EPA
Gary Baughman, CDPHE
Doug Jamison, CDPHE
Lee Pivonka, CDPHE
Jeannine Natterman, CDPHE

Jennifer Robbins, Colorado AG
Amelia Piggott, EPA Attorney
Monica Sheets, CDPHE
Wendy Naugle, CDPHE
Steve Miller, Arapahoe County
Karen Hancock, City of Aurora

Questions not yet answered, posed by CLLEAN to EPA Attorney Amelia Piggott in letter dated October 13, 2017

Did EPA Region 8 coordinate with CDPHE to compose the September 28, 2016 response to CLLEAN letter signed by Assistant Regional Administrator Hestmark dated September 12, 2016?

Does EPA Region 8 not understand that the Federal Regulatory responsibility for the LLSF Site **out of compliance occurrences** fall on the shoulders of EPA Region 8, who, after receiving their \$13.9 million in settlement in 2005, has not actively participated in the technical aspects of the LLSF Site?

Does EPA Region 8 honestly believe that the 2005 Consent Decree, which was not signed on to by EPA's Regulatory Partner, Colorado Department of Public Health and Environment (CDPHE), supersedes the 1994 Record of Decision?

Does EPA Region 8 believe that, in signing the 2005 Consent Decree, EPA Region 8 is no longer responsible, under Federal Regulation and the 1994 Record of Decision (ROD), to assure that the LLSF Site is Protective of Public Health and the Environment?

How could EPA Region 8, have been so naive as to think that once the 2005 Consent Decree was signed, EPA could walk from the LLSF Site, minimize their involvement and ignore their responsibility to the public and the environment?

How can EPA Region 8 justify doing nothing and allow chemical pollution to further invade our neighborhoods? Why would EPA Region 8 not use an abundance of caution to avoid putting members of the public at risk for exposure for years?

EPA states that "based on available information, the EPA believes the current remedy is protective of public health and the environment." After all of the evidence that CLLEAN has provided to the contrary, and the issues of concern CDPHE has raised in the last two years, how is it possible that EPA Region 8 continues to approve and publically distribute this false information?

Considering the off-site plume, and the revelation by CLLEAN that there are some shallow domestic wells located directly in the path of the plume, how can EPA, with a straight face announce publically that the remedy is "functioning as intended" and is "protective of human health and the environment?"

CLLEAN would like to know why EPA Region 8 has been approving reports and data written by EMSI using manipulated data, with little to no technical assistance and using them to convince the public that the Site is In Compliance?

CLLEAN would appreciate an opinion from EPA Site Attorney, Amelia Piggott on the evidence that CLLEAN has presented that LLSF Site data has been manipulated by EMSI. If found to be true, what are the ramifications to EPA Region 8 for approving this data and what are the ramification for EMSI as a company?

Please present a Plan of Action that EPA will follow to investigate the protectiveness of human health and the environment at the LLSF Site that does not use the manipulated numbers produced by EMSI.

Assure CLLEAN that the Contractor EPA relies on to review the LLSF Site for the upcoming 5 Year Review does not rely solely on the data produced by EMSI. If this review is to be accurate and believable, the Contractor should be directed to review comment from CLLEAN and CDPHE on EMSI data.